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UNCLAS SECTION 01 OF 03 KATHMANDU 001042

SIPDIS

STATE FOR SA, SA/INS, EAP/CM, DRL-A/S CRANER, PRM
LONDON FOR SOUTH ASIA WATCH

E.O. 12958: N/A

TAGS: [PREF](#) [PREL](#) [NP](#) [CH](#)

SUBJECT: TIBETAN REFUGEE DEPORTATION: POST-MORTEM

REF: (A) SECSTATE 144931 (B) KATHMANDU 715 (C)

KATHMANDU 753 (D) KATHMANDU 984 (E)
KATHMANDU 997 (F) KATHMANDU 998 (G)
KATHMANDU 1018

Summary

1. (C) Despite strenuous efforts by the Embassy to dissuade it from doing so, the Government of Nepal on May 31 deported 18 Tibetan refugees to China. The Mission began working this issue in late April shortly after the refugees were first detained. Post pressed for the refugees' release at all levels of the Government of Nepal (GON), from the King down to officials within the Home and Foreign Ministries, the National Police and the Immigration Office. On June 4, Home Minister and Deputy Prime Minister Mandal as well as Foreign Ministry Secretary Acharya gave strong assurances that the deportation was a one-time occurrence and did not signify a change in Nepal's official policy of allowing Tibetan refugees to transit the country. Acharya also confided that the Chinese had exerted unusual pressure in this specific case, confirmed our suspicion that the decision was made at the highest level of government, and repeated with resignation that the decision was one of the last made by the outgoing government. Post conveyed that the release of the one remaining Tibetan refugee, who had arrived just days after the group of 21 refugees, to UNHCR would go far to show the West of Nepal's commitment to allow future Tibetans to transit the country. End Summary.

Overview of Events

2. (C) After the April 15 detention of 21 Tibetan refugees (the 18 deported refugees plus 3 young children who were later released to UNHCR) (Ref B), Ambassador Malinowski met April 25 with Home Secretary Tikka Datta Niraula (Ref C) and May 9 with King Gyanendra to press for the their release and to convey the importance the U.S. places on the plight of the Tibetan refugees.

3. (C) On May 29, the Embassy learned that the Department of Immigration was preparing to hand over to Chinese Embassy representatives 18 Tibetans detained on immigration violations. Upon receipt of this information, EmbOffs contacted Home Ministry Joint Secretary Niranjan Baral to stress the importance of abiding by internationally respected norms and established practice. EmbOffs also contacted Immigration Director Subarna Lal Shrestha, who suggested that the deportation to China was "per our regulation," referred EmbOffs back to the Home Ministry. EmbOffs, in a follow-up call to Home Ministry Joint Secretary Baral, learned that the international community's intervention, including that of the U.S., had made the Ministry reconsider the matter (Ref D).

4. (C) On May 30, Charge delivered Ref A demarche to Foreign Secretary Madhu Raman Acharya, who denied that there had been

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a change in GON policy toward Tibetans transiting Nepal (Ref E). Efforts to contact the Home Secretary throughout the day proved futile. At 0600 on Saturday May 31, EmbOffs learned that the police were preparing to hand over the Tibetan detainees to the Chinese Embassy. EmbOff immediately called Home Ministry Secretary Tika Datta Niraula at his residence, but was hung-up on after identifying herself as a U.S. diplomat. Repeated attempts to call back were unsuccessful. After attempts to call Ministry Joint Secretary Baral proved in vain, Charge drove to Hanuman Dhoka jail to meet the police and attempt to avert the detainees' deportation. Unfortunately, by the time he arrived (8:00am), the detainees were gone (Ref F) and senior police officers made themselves unavailable. The following workday (June 2), the U.S. Mission released a press statement deploring the GON decision to deport the 18 Tibetans. EmbOffs' repeated calls to the Home Ministry went unanswered.

GON Assurances: No Change in Policy Toward Tibetans

15. (C) In a June 4 meeting with Home Minister and Deputy Prime Minister Badri Prasad Mandal, Charge received assurances that GON humanitarian policy toward Tibetan refugees in Nepal had not changed and that future Tibetan refugees will be processed as before the deportation. Mandal confirmed that the Chinese Embassy had made a specific request for this particular group of Tibetans, but had few additional details as the decision was made, he claimed, prior to his appointment as Home Minister. (Note. Mandal was appointed Home Minister on April 11, 2003 -- three days before the refugees were detained. End Note.) Mandal asserted that "this type of case will not occur again," as it is in Nepal's interests to "keep cordial relations with the U.S." He said he recognized the importance of USG assistance in combating the Maoist insurgency, adding, "we are serious about" preventing another such incident. In spite of Nepal's two large neighbors, Mandal asserted that Nepal "can stand on its own legs" in order to ensure positive and productive relationships with the West, particularly the United States.

16. (SBU) In a second meeting on June 4, Foreign Secretary Mahdu Raman Acharya described both the official and nonofficial version of events surrounding the deportation. (Foreign Minister Shah has been ill and unavailable for official meetings.) According to Acharya, the MFA directed its Embassies on June 4 to issue an official press release explaining the May 31 incident. The text he presented follows below.

Begin Text:

Nepal is home to more than 135,000 refugees, including several thousand Tibetan refugees. It is not the policy of the HMGN to extradite refugees. HMGN understands and gives full consideration to humanitarian and human rights issues of the asylum seekers. Last year alone some 3,000 Tibetan refugees were allowed to be processed from Nepal. There is no change in policy of HMGN with regard to the refugees.

We have learnt that the reported case of Tibetans were sent back after the Immigration Authority of HMGN were fully convinced from the investigation that they were not seeking asylum, but were a rare case of illegal immigrants. They were allowed to go back after the fines were paid.

HMGN is convinced that the Tibetans sent back do not have anything which could be a cause of concern regarding their human rights abuses.

End Text.

17. (C) Acharya reported that immigration officials discovered the group of 21 Tibetans in a town in Eastern Nepal, adding that it was not known when the group crossed the border. He said that Immigration officials believed the Tibetans were intending to reside in Nepal, and consequently were categorized as illegal immigrants. (Note: The Office of Tibet had told us the refugees were arrested just outside Kathmandu, had just crossed into the country, and were on their way to India (Ref B). End Note.)

18. (C) In confidence, Acharya admitted that the Chinese Government had a specific interest in the case of the 18 Tibetan refugees. "It is difficult to go against strong Chinese interests," he said, adding, "not that we like it, but we could not resist it." Acharya acknowledged that the GON was perfectly aware of the USG position, but had "no choice in this case," adding, "the Americans more than anyone else know how difficult the Chinese can be." He also confirmed that this decision was made at the highest political level within the GON. He repeated with resignation that the decision to go ahead with the deportation was the last act of the outgoing government.

19. (C) Charge showed Acharya copies of the Embassy and State Department press releases, as well as Chairman Leach's statement before the U.S. House of Representatives, adding that several Congressmen had indicated an interest in cutting U.S. aid to Nepal. Charge then stressed to Acharya the importance of processing remaining refugees in detention as evidence of GON commitment to allow Tibetan refugees to transit Nepal. (Note: Post learned from UNHCR contacts June 4 that one Tibetan man who arrived only a few days after the group of 21 Tibetans remained in GON custody. Earlier this week, UNHCR was granted access for an interview, after which he was declared "of concern" to the U.N. and a formal letter of request for his release was made. End Note.) Acharya replied that there are "standing instructions" to process Tibetan refugees as previously done before this incident.

110. (C) Acharya said that usually the Chinese are quiet about the flow of Tibetan refugees through Nepal. (Note. In a later June 4 conversation former PM Sher Bahadur Deuba told PolCouns that the Chinese frequently pressure the GON to hand

over detained Tibetan refugees. End Note.) Acharya added that his government has conveyed to the Chinese that Nepal will not deport future refugees back to China. In fact, Acharya suggested that the GON would try to shorten the detention period required to hold Tibetan "illegal immigrants" before their release to UNHCR.

11. (C) In a June 4 telephone conversation, Prabakhar Rana, a close confidant of the Palace, confirmed that a letter on the refugees from an influential private American had been delivered on June 2 to King Gyanendra. Prabakhar also confided that he is seeking an audience with the King specifically to discuss the Tibetan refugee issue and requested information on possible USG action in order to arm him for his conversation with King Gyanendra.

International Response

12. (U) The international response to this incident has been strong. Acharya mentioned that the German Foreign Minister called the Nepali Foreign Minister to protest that week. In addition to the United States, the UK, UNHCR and Amnesty International have issued press releases condemning the incident while the EU intends to follow suit as soon as possible. The Foreign Secretary indicated that he has been inundated with international messages of protest.

13. (U) However, the Chinese Embassy in Kathmandu also issued a June 3 press release defending the GON's decision to deport the 18 Tibetans, claiming it fell "within Nepal's sovereign jurisdiction and a common international practice." The press release also states that "China attaches great importance to combating illegal immigrants, and is actively involved in various international and regional cooperation in this field. We hold the view that politicizing or adopting double standards will not be conducive for the proper settlement of the issue of illegal immigrants."

Comment

14. (C) The consensus among diplomats, the press and the political elite, is that the primary reason for the deportation was the unusual pressure put on the GON by the Chinese Government. Our meetings made it clear that despite the GON's clear understanding of the US position regarding the detained refugees, the GON made a calculated decision -- most likely at the level of the King himself -- to deport the refugees in order to appease their northern neighbor.

15. (C) Comment Continued: The international outcry provoked by this incident should make the GON weigh carefully any future request to deport detained refugees. We note with concern Acharya's assertion that the GON now plans to detain undocumented Tibetans as a matter of standard procedure -- a significant departure from past practice, in which they were directly transferred to the UNHCR. Unfortunately, if their detention becomes an issue of income generation, it may be hard to stop. Post is also concerned that despite Acharya's and the Deputy Prime Minister's assurances that this incident will not recur, any detention period could put the refugees in jeopardy of deportation. We hope that Acharya's assertion that the GON desired to shorten the period of detention indicates an interest in keeping the refugees below China's radar screen. End Comment.

BOGGS